

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RAUL GONZALES,
Petitioner,
v.

CALVIN JOHNSON, *et al.*,
Respondents.

Case No. 2:21-cv-02055-GMN-DJA

SCHEDULING ORDER

In this habeas corpus action, on November 17, 2021, the Court appointed counsel for the petitioner, Raul Gonzales. See Order entered November 17, 2021 (ECF No. 7). Gonzales's appointed counsel—the Federal Public Defender for the District of Nevada—appeared on November 18, 2021 (ECF No. 13). On that same date, along with the notice of appearance, Gonzales' counsel also filed a motion for leave to file a first amended petition, with the proposed first amended petition attached, and a motion for a scheduling order, requesting issuance of a scheduling order with a provision allowing the filing of a second amended petition (ECF Nos. 14, 15). The Court granted those motions on November 19, 2021 (ECF No. 16). On November 23, 2021, counsel for the respondents appeared (ECF No. 19). The Court now issues this scheduling order for this action.

IT IS THEREFORE ORDERED that the following schedule will govern further proceedings in this case:

Second Amended Petition. Petitioner will have 90 days from the date of this order to file a second amended petition for writ of habeas corpus. The second amended petition must specifically state whether each ground for relief has been exhausted in

1 state court; for each claim that has been exhausted in state court, the second amended
2 petition must state how, when, and where that occurred.

3 Response to Petition. Respondents will have 60 days following filing of the
4 second amended petition to file an answer or other response to the second amended
5 petition.

6 Reply. Petitioner will have 45 days following filing of an answer to file a reply.
7 Respondents will thereafter have 30 days following filing of a reply to file a response to
8 the reply.

9 Briefing of Motion to Dismiss. If Respondents file a motion to dismiss, Petitioner
10 will have 60 days following filing of the motion to file a response to the motion.

11 Respondents will thereafter have 30 days following filing of the response to file a reply.

12 Discovery. If Petitioner wishes to move for leave to conduct discovery, Petitioner
13 must file such motion concurrently with, but separate from, the response to
14 Respondents' motion to dismiss or the reply to Respondents' answer. Any motion for
15 leave to conduct discovery filed by Petitioner before that time may be considered
16 premature, and may be denied, without prejudice, on that basis. Respondents must file
17 a response to any such motion concurrently with, but separate from, their reply in
18 support of their motion to dismiss or their response to Petitioner's reply. Thereafter,
19 Petitioner will have 20 days to file a reply in support of the motion for leave to conduct
20 discovery.

21 Evidentiary Hearing. If Petitioner wishes to request an evidentiary hearing,
22 Petitioner must file a motion for an evidentiary hearing concurrently with, but separate
23 from, the response to Respondents' motion to dismiss or the reply to Respondents'
24 answer. Any motion for an evidentiary hearing filed by Petitioner before that time may
25 be considered premature, and may be denied, without prejudice, on that basis. The
26 motion for an evidentiary hearing must specifically address why an evidentiary hearing
27 is required and must meet the requirements of 28 U.S.C. § 2254(e). The motion must
28 state whether an evidentiary hearing was held in state court, and, if so, state where the

1 transcript is located in the record. If Petitioner files a motion for an evidentiary hearing,
2 Respondents must file a response to that motion concurrently with, but separate from,
3 their reply in support of their motion to dismiss or their response to Petitioner's reply.
4 Thereafter, Petitioner will have 20 days to file a reply in support of the motion for an
5 evidentiary hearing.

6
7 DATED THIS 29 day of November, 2021.

8
9 
10 _____
11 GLORIA M. NAVARRO
12 UNITED STATES DISTRICT JUDGE
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28